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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,541	03/30/2004	Awdhoot Vasant Kerkar	FDN-2831	3421

7590 01/16/2007  
GAF MATERIALS CORPORATION  
Attn: William J. Davis, Esq.  
Legal Department, Building No. 10  
1361 Alps Road  
Wayne, NJ 07470

EXAMINER
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CHEVALIER, ALICIA ANN

ART UNIT	PAPER NUMBER
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1772

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/16/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/812,541

Applicant(s)

KERKAR ET AL.

Examiner

Alicia Chevalier

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1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 11-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 2/23/05, 3/30/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. Claims 1-18 are pending in the application, claims 11-18 are withdrawn from consideration.

#### *Election/Restrictions*

2. Applicant's election without traverse of Group I, claims 1-10, in the reply filed on December 7, 2006 is acknowledged.

3. Claims 11-18 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Election was made **without** traverse in the reply filed on December 7, 2006.

#### *Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fasold et al. (U.S. Patent No. 2,326,724) and evidenced by Wikipedia.

Regarding Applicant's claim 1, Fasold discloses a roofing shingle (*col. 1, lines 8-9*) comprising a top and bottom surface (*figure 4*). The bottom surface is provided with a release coating of a continuous film of particles (*col. 13, lines 33-37 and col. 1, lines 26-31*).

Fasold fails to disclose that the particles have good to perfect basal cleavage.

Fasold further discloses that the particles on the bottom surface prevent sticking of the adjacent layers of the roofing material in a package (*col. 1, lines 26-31*). Basal cleavage is cleavage parallel to the base of a crystal, or to the plane of the lateral axes making the material feel slippery (*see wikipedia print out*).

Therefore, the exact basal cleavage of the particles is deemed to be a result effective variable with regard to the release property of the particles. It would require routine experimentation to determine the optimum value of a result effective variable, such as basal cleavage, in the absence of a showing of criticality in the claimed basal cleavage. *In re Boesch*, 205 USPQ 215 (CCPA 1980), *In re Woodruff*, 16 USPQ2d 1934, 1936 (Fed. Cir. 1990). One of ordinary skill in the art would have been motivated to use a good to perfect basal cleavage in order to increase the release properties, i.e. slipperiness, of the particles and prevent sticking.

Regarding Applicant's claim 2, the release coating is deemed to be disposed on the pressure points portions of the bottom surface, since Fasold discloses that the coating cover the entire backing (*col. 13, lines 33-37 and figure 4*).

Regarding Applicant's claim 3, Fasold discloses that the roofing shingle is a shingle selected from the group consisting of a laminated shingle and a strip shingle (*col. 1, lines 8-9*).

Regarding Applicant's claims 4 and 5, Fasold discloses that the particles are in the class phyllosilicates, such as talc (*col. 1, lines 26-27*).

Regarding Applicant's claims 6-10, Fasold discloses a plurality of roofing shingles in a stack (*col. 1, lines 6-12 and lines 26-31*). While Fasold does not specifically state that the top surface of each roofing shingle faces the bottom surface of its adjoining roofing shingle, Fasold

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clearly in visions this because it discloses that the material can be in roll form (*col. 1, line 9*).

Further, more it is well known to stack shingles with the top surface of each roofing shingle faces the bottom surface of its adjoining roofing shingle.

***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia Chevalier whose telephone number is (571) 272-1490.

The examiner can normally be reached on Monday through Friday from 8:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ac

1/7/07

  
ALICIA CHEVALIER  
PRIMARY EXAMINER